IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5720 OF 2003

Shri. Sadashiv Ramchandra Patil ... Petitioner

Vs.

The State of Maharashtra and Ors. ... Respondents

Mr. R.V. More for Petitioner.

Mr. R.D. Rane, A.G.P. for Respondent Nos. 2, 3 and 4.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 15, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner was working as Head Master in the school run by the Zilla Parishad. It is the case of the Petitioner that he passed S.S.C. examination in the year 1973 and Pre degree examination in the year 1976. It is further his case that his service record has been interpolated and has been victimised with mala fide intentions as he was an active member of the Teacher's Association while serving in the office of the Respondents. By the present petition, the petitioner prays that he be granted benefits considering that he had passed S.S.C. in the year 1973 ad Pre degree in the year 1976 in terms of the policy of the Government. It is not necessary for us to go into the various aspects considering that

as there was dispute about the entries made in the service book of the petitioners and interpolations thereof, we had asked learned A.G.P. to produce the service record of the Petitioner. We find in the service record that on 13.9.1975, 21.5.1976 and on 31.5.1977 there are entries in the matter of pay fixation granting increments based on passing S.S.C. and which have been signed and in fact which increments were released in favour of the Petitioner. This seems to have been recovered from the Petitioner on the ground that there was no signature on the entry showing that he had produced S.S.C. certificate. This is after the entries of 30.9.1975 and 31.5.1976. We thereafter find that in so far as pre degree is concerned, there was entry made which has thereafter been scored out. There is no signature scoring it out. We cannot understand as to how the entries made in the service record had been scored out. The grievance therefore, of the Petitioner that in fact he had submitted his S.S.C. certificate as also pre degree certificate finds support in the service book based on which the Petitioner was released increments.

. The case of the Respondent is that the Petitioner did not produce the relevant documents before the cut off date for option. It is

submitted that the payments made based on increment were recovered from the petitioner as there was no certificate for the entries showing that he has produced S.S.C. certificate. The learned A.G.P. is however, unable to explain as to why the entries of pre degree certificate has been scored. The pre degree only can be entered if the petitioner has passed his S.S.C. examination. To our mind this would indicate that there are other reasons as to why the entries made are cancelled in the service book. There was absolute no reason as to why the petitioner who had passed S.S.C examination and pre degree examination and would be entitled to increments would keep them away and not produce them before the authorities. The subsequent correspondence is only for the purpose of production of the documents to the authorities. These subsequent letters in our opinion cannot be held against the petitioner considering the contents of the letter.

. We are therefore, satisfied that the Petitioner had duly submitted his certificates and due entries were made in the service record. Once that be the case, the petitioner could not have been denied the benefits.

. The Petitioner's case is that thereafter he has

been representing to the authorities and ultimately also applied to the Lok Ayukta. He prays that since he has now retired, the amounts of gratuity and dues should be paid to him with interest relying on the Government resolution of 24.4.1995. It is not his case that the pension or gratuity has not been paid to him. His only case is that his pay was not correctly fixed and consequently the pension and gratuity has not been so computed as had to be computed. Considering the above, though there has been delay on the part of the petitioner to approach this Court, we have to bear in mind that the petitioner was in the service of the Respondents and he has been representing to them and it is not expected that every teacher should run to courts for paltry increments. At the highest though as the Petitioner has claimed interest, considering the delay in approaching the court, petitioner would not be entitled to any interest on the amounts. In the light of the above, we dispose of the petition by issuing following directions :

(1) Respondents are directed to re-fix petitioner's' pay in terms of the service entries made in service book as if they have been duly authenticated by the competent officer at the time they are found in the service book. The Petitioner

would be entitled to release of his increments and fixation of pay with increments consequent to his having passed both the S.S.C. and pre degree examinations.

(2) The arrears of salary as so computed be paid to him along with difference in gratuity. The pension to be re-worked in terms of the directions now issued.

(3) On re-fixation all arrears of salary, gratuity and arrears towards pension as re-fixed be paid to the petitioner within six months from today.

(4) If the amounts are not paid within six months, respondents to pay interest on the delayed payment after six months at the rate of 9% p.a. till final payment.

(5) In so far as pension is concerned, the Respondents to forward the same to the Accountant General within three months from today. The Accountant General though not party to this proceeding, to accordingly fix the revised pension within three months thereafter.

. Rule made absolute accordingly. No order as to

costs. Service book is returned to the learned A.G.P.

. All parties to act on the copy of this order duly authenticated by the Associate of this court.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)